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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/502,923	02/11/2000	Joseph Gebis	AM9-98-146	5882

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EXAMINER

TRAN, PABLO N

ART UNIT PAPER NUMBER

2685

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/502,923

Applicant(s)

GEBIS ET AL.

Examiner

Pablo N Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 10, 11 and 35 is/are allowed.  
6) ☒ Claim(s) 1-9, 12-20, 23-31, 34 is/are rejected.  
7) ☒ Claim(s) 21-22, 32-33, and 36 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 12, 14-20, 23, and 25-31 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention *Foladare et al.* (5,819,160).

As per claims 1, 12, and 23, *Foladare et al.* disclosed an information handling system comprising a content database (fig. 1/no. 18) for storing content and the content is organized into at least one channel (where it is clear that the content database organized the content into a play-list/channel, see col. 1/ln. 66-col. 2/ln. 7), means for receiving subscriber content preference and the subscriber content preferences comprises preferences for at least one preferred channel within the at least one channel (col. 1/ln. 66-col. 2/ln. 26), a content controller (fig. 1/no. 16) for selecting from the at least one preferred channel according to the subscriber content preference, means for mixing content from the at least one preferred channel according to subscriber content preference, a modulator coupled (col. 4/ln. 4-6) for modulating audio content, and a transmitter (col. 4/ln. 4-6) coupled to the content database and to the means for mixing

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content for wirelessly transmitting mixed content from the at least one preferred channel to the mobile terminal (col. 2/ln. 27-col. 3/ln. 21).

As per claims 2, 14, and 25, *Foladare et al.* disclosed the transmitter is RF (see Foladare, col. 3/ln. 60-66).

As per claims 3, 15, and 26, *Foladare et al.* disclosed the transmitter operated under analog cellular protocol (see Foladare, col. 2/ln. 27-38, col. 3/ln. 44-59).

As per claims 4, 16, and 27, *Foladare et al.* disclosed the transmitter operated under analog cellular protocol (see Foladare, col. 3/ln. 60-66).

As per claim 5, *Foladare et al.* disclosed the subscriber preferences is provided by the subscriber (see Foladare, col. 2/ln. 27-col. 3/ln. 21).

As per claims 6-8, 17-19, and 28-30, *Foladare et al.* disclosed the subscriber content preference comprises music, stock, or sports (see Foladare, col. 5/ln. 39-col. 6/ln. 13).

As per claims 9, 20, and 31, *Foladare et al.* disclosed personalized channel mixing means for allowing a user of the remote subscriber unit to specified the way that content from the at least one preferred channel is combined when transmitted by the transmitter (see Foladare, col. 2/ln. 27-col. 3/ln. 21).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13, 24, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Foladare* (5,819,160) in view of *Cannon et al.* (5,974,447).

As per claims 13 and 24, *Foladare* does not disclose a text-to-audio converter. However, such converter is well known in the art, as disclosed by Cannon (col. 4/ln. 27-29). Therefore, it would have been obvious to one of ordinary skill in the art to provide such converter as taught by Cannon to the radio subscription system of *Foladare* in order to reduce bandwidth when delivering the subscriber preference contents to the subscriber terminal.

#### ***Allowable Subject Matter***

5. Claims 10-11 and 35 are allowed.
6. Claims 21-22, 32-33, and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

7. Applicant's arguments filed 11/03/05 have been fully considered but they are not persuasive.

The Applicant stated that, "Foladare et al. do not suggested that the content is organized into one channel". In response to the Applicant's arguments,

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Foladare et al. disclosed such content database (fig. 1/no. 18) for storing content and the content is organized into at least one channel/play-list (see col. 1/ln. 66-col. 2/ln. 26)

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (571)272-7898. The examiner normal hours are 9:30 -5:00 (Monday-Friday). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571)272-7899.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**



Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

**PABLO N. TRAN**  
**PRIMARY EXAMINER**

May 15, 2005

  
  
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